IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2018

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THE HON'BLE MR.JUSTICE **D.KRISHNAKUMAR**

C.P.No.246 of 2002
and Comp.A.No.551 of 2018

Ashok Commercial Enterprises,
a partnership firm duly registered
under the provisions of the partnership
Act, having their office at 711-712,
Dalamal Tower, 211, Nariman Point,
Mumbai 400 021.
rep. by its Partner Mr.Ramesh Ramchandani ... Petitioner

Vs

Antarix e Applications Ltd.,
A Company incorporated under the
Companies Act, 1956, having its
registered office at 40, Bazullah Road,
T.Nagar, Chennai 600 017. ... Respondent

Prayer: Original Petition filed under Section 433(e), 434(1)(a) and 439(1)(b) of the Companies Act 1 of 1956 read with rule 93 of the company Court rules praying to

a) pass an order of winding up of the respondent Company, Antarix e Applications Limited by and under the directions of this Hon'ble Court under the provisions of the Companies Act 1 of 1956;

b) appoint the Official Liquidator as Liquidator of the respondent company, Antarix e Applications Limited to conduct its affairs in the course of winding up and to distribute its assets in accordance with law.

c) costs of this Petition be provided for

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For Petitioner : No appearance

For Respondent : No appearance

Official Liquidator : Mr.Bavi setty Sridhar

ORDER

The learned Official Liquidator submitted that pursuant to the order of this Court dated 03.11.2004 in C.P.No.246 of 2002 the petitioner creditor M/s.Ashok Commercial Enterprises has deposited Rs.10,000/- on 11.04.2005 with Official Liquidator. The Official Liquidator has taken possession of the Registered Office of the company in liquidation situated at No.95, Habibullah Road, T.Nagar, Chennai on 25.04.2005. Subsequently the Commissioner of Customs vide his letter dated 24.06.2005 has informed that the company in liquidation was using a premises as warehouse and kept some goods claimed by them. This Court by order dated 16.11.2009 made in C.A.Nos.735 & 736 of 2009 has directed the Customs Department to sell the movable assets in the presence of the Official Liquidator and accordingly the Customs Department sold the above movable items for a sum of Rs.2,90,785/- and appropriated towards their dues.

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2. It is further submitted that the Balance sheet for the year 31.03.2006 filed by the Company in liquidation with Registrar of Companies, Tamil Nadu, Chennai the following assets were mentioned in the name of the Company.

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Fixed Assets – less depreciation : Rs.20,10,95,225/-

Capital work in progress : Rs.3,20,31,111/-

Current Assets i.e., loan and

Advances & Sundry debtors : Rs.46,93,12,425/-

However the location and other details were not provided in the said balance sheet and the Official Liquidator was not in a position to take steps on the basis of balance sheet details.

3. The landlord of the registered office premises has filed an application in C.A.No.735 of 2009 to handover the premises to her and this Court vide its order dated 09.02.2010 directed the Official Liquidator to handover the possession to her and accordingly the Official Liquidator has handed over the same to the landowner in the presence of her counsel.

4. The Ex-Directors have not filed the statement of affairs and not handed over the books & records. The Official Liquidator has issued notice under Rule 130 of the Companies (Court) Rules, 1959 for a meeting held on 11.12.2011, however despite of receiving notice none of the Ex-Directors have attended the meeting. Due to non availability of sufficient funds, the Official Liquidator has not called for claims from the creditors of the company in liquidation. The Official Liquidator has filed misfeasance

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D.KRISHNAKUMAR, J.,

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application u/s 542 & 543 of the Companies Act, 1956 and the same was dismissed by this Court vide order dated 01.04.2013.

5. As on date, the funds position of the company in liquidation is Rs.8058/- which is the balance of initial deposit made by the petitioner creditor. Since there is no further assets to be realised and available fund is meager, the Official Liquidator has not called for any claims as required u/s.446 of the Companies Act, 1956. Therefore no fruitful purpose would be served if the company petition is kept pending.

6. Taking into account the report submitted by the Official Liquidator, this Court is inclined to dissolve the Company under Section 481 of the Companies Act, 1956. Accordingly the Company is dissolved and this company petition is closed. The Company application filed by the Official Liquidator is ordered as prayed for and the learned Official Liquidator is discharged from the proceedings. No costs.

25.10.2018

Index: Yes/No

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Internet:Yes/No

Speaking order/Non-Speaking order

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